

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

FEB 27 2023

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JONATHAN DUNN, Lieutenant Colonel,

Plaintiff-Appellant,

v.

LLOYD J. AUSTIN III, US Secretary of  
Defense; FRANK KENDALL, US Secretary  
of the Air Force; GREGORY M. HAYNES,  
Colonel; JEFFREY PENNINGTON, Major  
General; UNITED STATES  
DEPARTMENT OF DEFENSE,

Defendants-Appellees.

No. 22-15286

D.C. No.

2:22-cv-00288-JAM-KJN

Eastern District of California,  
Sacramento

ORDER

Before: W. FLETCHER, BYBEE, and VANDYKE, Circuit Judges.

On January 11, 2023, the government's filing informed the court that the Secretary of Defense had rescinded the COVID-19 vaccination requirement for all military service members. As directed by the court's January 19 order, the parties filed supplemental briefing addressing whether this case is moot in light of the government's change in policy.

We dismiss the appeal as moot and vacate the district court's order denying the preliminary injunction. The case is remanded to the district court for such further proceedings as may be appropriate.

**VACATED AND REMANDED.**